

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT  
Tacoma Division

1717 Pacific Avenue, Room 3100, Tacoma WA 98402

JOE PATRICK FLARITY, a marital community And Others Similarly Situated Plaintiffs, V. KENNETH ROBERTS, ARGONAUT INSURANCE COMPANY, PIERCE COUNTY, a municipal corporation, Et Al. Defendants	§ CAUSE No. 3:20-cv-06247-DWC § § § COLOR OF LAW VIOLATIONS, § DAMAGES, PENALTIES AND § DECLARATORY RELIEF § § § CLASS ACTION § § JURY TRIAL REQUESTED § §
--	--

Receipt # SEA102944.

TABLE OF CONTENTS	PAGE
PLEADING.....	2
BASIS FOR JURISDICTION .....	4
PLAINTIFFS AND STANDING.....	5
DEFENDANTS .....	6
VENUE.....	7
JURY DEMANDED .....	7
DUTY TO DISCLOSE .....	7
DELIVERY OF SERVICE .....	7
STATEMENT OF FACTS .....	8
DECLARATORY RELIEF REQUESTED .....	10
REMEDIES REQUESTED .....	10

## PLEADING

1. NOW COMES the PLAINTIFF, PRO SE, moves the Court to order the Defendants, hereafter called **the officials**, to pay damages as a result of violated Constitutional Amendments, laws, rules, and the officials' sworn oaths. When **the people** is used, it refers to the allied citizens and residents of Pierce County in general, with Flarity included.

2. The officials' abuses of power, process, and the rule of law damage the people regardless of political affiliation, race, sex, age or citizenship. The officials' abuse is widespread and represents a PATTERN and PRACTICE.

3. Flarity repeats and re-alleges all the allegations contained herein as if fully set forth throughout. For pleading clarity, this vernacular applies to all counts, remedies, and reliefs herein and will not be repeated.

### COUNT 1 42 U.S. Code § 1983, Claim for Violation of Equal Protection of the Law and Due Process (Against all Defendants)

4. The authority of the 14th amendment invokes the US Constitution on the defendants for constitutional amendments, rules, procedures and oaths.

14th Amendment: "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws."

5. Officials damaged Flarity by violations of the US Constitution as the employees refused to obey amendments, laws, sworn oaths or other established codes of conduct. The violations of individual employees were taken jointly, in concert, and with shared intent. They constituted a civil conspiracy to deny civil

rights. The violations are ***deliberate, reckless or callous*** with ***evil intent*** and ***bad faith***. Flarity suffered intentional emotional damage and ambient abuse by officials violating the laws they swore to uphold, as well as significant financial damages.

**COUNT 2**  
**42 U.S. Code § 1983, Monell Policy Claim**  
**(Against Defendant Pierce County)**

6. The actions of employees were taken under the authority of one or more ***policies, patterns, practices or customs***. The officials failed to train, supervise, discipline, or otherwise control individuals responsible to ensure the rights of the people are protected. The policies represent unconstitutional practices. The policies were further established by ratification, approval or indifference by supervisors and policy makers. Employees have a good reason to believe their misconduct will not be challenged and that they are immune from consequences, such as RCW 9A.52.070, RCW 9A.80.010, and RCW 84.40.025. Defendant Pierce County has taken overt steps to hide ***bad faith*** official misconduct and slip the financial burden onto the people.

**COUNT 3**  
**Violation of Flarity's Right to Due Process**  
**(Against Pierce County and Kenneth Roberts)**

7. Flarity suffered from an unfair hearing before an administrative tribunal, the Pierce County Board Equalization (hereafter BOE) with Kenneth Roberts as Chairperson. Kenneth Roberts was selected for the BOE by the Pierce County Council. The BOE has oversight with the Pierce County District Attorney by state statute and by pattern and practice, the Clerk of Superior Court in Pierce County.

8. Research indicates that near 100% of residential petitioners appearing before the BOE with Kenneth Roberts as chairperson suffered the same humiliating defeat even though no representative appeared to argue for the county. Kenneth Roberts demonstrates the ultimate “captured administrative agency.” Petitioners worked diligently on their presentations and took time off work to appear with the expectation they would receive a fair and impartial hearing. Instead, the BOE outcome was predetermined.

**COUNT 4: Civil Rights Tort Claims are liable to the Argonaut  
Insurance Company**

9. Flarity alleges that there is a bad faith agreement at work in Pierce County. The Argonaut Insurance Company knew or should have known that tens of millions of taxpayer dollars for civil rights violations of which they were liable was instead being sneaked onto Pierce County taxpayers. Argonaut was paid about \$306,963.00 of 2017 premiums and the people expect them to honor their contract. Public insurers have a moral and legal responsibility to restrain the officials they insure. Argonaut has breached its duty, contributing to Pierce County’s pattern and practice of civil rights violations. This failure was an intentional, or negligent tort, by strict or implied liability.

**BASIS FOR JURISDICTION**

10. The basis for jurisdiction is a federal question pursuant to Civil Rights Act, 42 U.S. Code § 1983, et seq; 28 U.S. Code § 1331; 28 U.S. Code §

1343 (a); the, 5th, 6th and 14th Amendments of the Constitution of the United States.

11. Supplemental jurisdiction over similar state law violations may be invoked by the Court pursuant to 28 U.S. Code § 1367.

12. This Court has further remedial authority under the Declaratory Judgment Act, 28 U.S. Code § 2201 (a) and 28 U.S. Code § 2202.

## PLAINTIFFS AND STANDING

13. Flarity is a marital community of lots 2 and 3 located in rural Pierce County; address 28719 Borrell Rd E, Buckley, WA 98321 and approximately 11 acres. This land is productive pasture since the Wickersham and Valley saw mills were removed around 1910, and the fertile land short-platted into the Valley Garden Estates. Flarity proceeds on behalf of the community via FRCP R17 and RCW 4.08.040 "When either spouse or either domestic partner may join or defend."

14. Precedent has been established that Federal Court is the proper forum for 42 U.S. Code § 1983 claims at any stage of the litigation process. Flarity will show suffering from an "*injury-in-fact*," that its injury is "*traceable*" to county actions, and that Flarity's injury will likely be "*redressed*" by this action. *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992).

15. This Cause meets the requirements of FRCP 23 for class actions: 1) the possible plaintiffs whom appeared before the unfair BOE chaired by Kenneth Roberts number in the hundreds and are easily identified and located by public records. 2) there are questions of law or fact common to the class. 3) the claims of Flarity are typical of the claims of the class.

## **DEFENDANTS**

16. The actions of the county officials whom violated Flarity's civil rights were covered in 2017 by Argonaut Insurance Company, a Bermuda company with Domiciliary Address listed as 225 W. Washington Street, 24th Floor Chicago, IL 60606.

17. Kenneth Robert was the BOE Chairperson in 2018 having served on the BOE for the three previous years in some capacity. It is unknown at this time the influence of the other board members, Dee Martinez, and Jean Contanti-OEHLER, on BOE unfairness. None of these BOE members had legal or real estate experience.

18. Pierce County is a municipal corporation formed under the laws of Washington State. Pierce County is represented by the County Executive, Bruce Dammeier.

19. Et Al: UNNAMED INDIVIDUAL DEFENDANTS: The fracture of laws and constitutional amendments Flarity suffered required substantial assistance from a variety of officials whom will be added to the complaint when identified during discovery.

## **VENUE**

20. Venue is the Western District of Washington under 28 U.S. Code § 1391 (b)(3). “a defendant not resident in the United States may be sued in any judicial district...”, 28 U.S. Code § 1332 and 28 U.S. Code § 1441. The family of Argonaut Insurance Companies are based in Bermuda.

21. Flarity’s property and the events occurred in Pierce County within the Venue of the Western District at Tacoma.

## **JURY DEMANDED**

22. Flarity respectfully demands a jury per Fed. R.Civ. P. 38 (a).

## **DUTY TO DISCLOSE**

23. Per Federal Rule 26. Initial Disclosure: The officials have a duty to disclose all possible defendants, documents, and insurance agreements within 30 days of service.

## **DELIVERY OF SERVICE**

24. Delivery of service per FRCP Rule 5 and proof of service will be filed with the Court except for Argonaut Insurance Company.

25. The actions of the county officials whom violated Flarity’s civil rights were covered in 2017 by Argonaut Insurance Company, a Bermuda company.

Per the Insurance commissioner’s website, service is to:

Office of the Insurance Commissioner  
Service of Legal Process  
P.O. Box 40255  
Olympia, WA 98504-0255

*“...with a cover letter stating the insurer, the summons and complaint, two sets of all documents for each entity and a \$10 check or money order per*

*insurer made payable to Washington State Office of the Insurance Commissioner."*

## STATEMENT OF FACTS

26. Parcels 9815000014 and 9815000015 were listed as 100% wetlands in 2017 and recognized as an **open space corridor** for wildlife in the tax records. The land has been in continuous farm production since 1910 for hay and grazing and other livestock.

27. Flarity's residence was in East Texas at time of the unfair BOE hearing.

28. Flarity drove up from Texas for a BOE hearing in protest of a barn on parcel 9815000015 that had been designated by a residential appraiser as a half finished residence. Flarity crossed 4 snowy passes and arrived at the BOE hearing early on January 9, 2018 with the intention of witnessing other Pierce County property owners give their presentations. The BOE Clerk at that time, Kim Shannon, did inform Flarity that the BOE Court was CLOSED to the public in violation of state law. The BOE panel consisted of Ken Roberts, Dee Martinez, and Jean Contanti-OEHLER.

29. On January 17, 2018, Ken Roberts issued an Order on Flarity's petition 201702142, abdicating BOE authority to rule on the Assessor's "presumption" about Flarity's barn and leaving the appraiser's assessment in force.



30. Flarity filed a claim for damages per Washington law: **RCW 4.96.020**. This was denied in full with no explanation by Pierce County Risk Management on November 15, 2018.

31. In May of 2019, Flarity packed personal items by Allied shipping and moved to the northwest for the single purpose of contesting the loss of the people's civil rights in Pierce County.

32. On May 28, 2019, Flarity presented to the Pierce County Council details of the violation of our civil liberties, possible remedies, and purchased a website to document Flarity's presentations: <http://inthejawsofjackals.com>

33. On June 18, Flarity presented to the Council this quote from Mary Robnett, the current prosecutor:

<https://truthaboutmark.com/the-promising-start-the-fall-from-grace/>

*...Lindquist's terms have been marked by multiple scandals, an obsession with image management and politics, poor decision-making, retaliation, besieged subordinates, a damning independent investigation, and piles of wasted taxpayer dollars.*

At this meeting, the Council did approve a claim for \$649,999. in the case of **Ames v. Pierce County** ,374 P.3d 228 (2016) with no discussion.

34. Flarity's investigation of **Ames** revealed the **damning independent investigation** Mary Robnett referred to above: Mark R. Busto of Sebris Busto James, dated October 22, 2015. The report provided details about **Ames** and a related one, **Nissen v. Pierce County**, 182 Wash.2d 1008, 343 P.3d 759 (2015). Multiple millions were needed to resolve these cases for similar callous behavior to people's rights by Prosecutor Mark Lindquist. Like in Ames, the Council had forced the Nissen costs onto the taxpayers with no discussion.

35. Flarity submitted numerous petitions to the Washington State Board of Tax Appeals (WSBTA) concerning the unconstitutional activity of Pierce County officials. On September 3, 2019, Flarity appeared before Mark Pree at the WSBTA for a hearing on the presumed characteristic of the barn on lot 3.

36. On November 6, 2019, the WSBTA denied Flarity's claim for review on Cause 93983 and 94396, ending the last nonjudicial remedy available to rectify the unfair hearing suffered by Flarity before the arbitrary Kenneth Roberts.

37. On December 3, 2019, Flarity submitted a claim to Pierce County Risk management for his Denial of a Fair and Impartial Hearing. This claim was rejected with no explanation.

38. After three years of jumping through myriads of "required" non-judicial hoops with no acknowledgement of a scintilla of culpability by Pierce County, Flarity now prays for relief in Federal Court.

## **DECLARATORY RELIEF REQUESTED**

39. DENIAL OF A FAIR AND IMPARTIAL HEARING: Flarity asks the Court to DECLARE that the BOE chaired by Kenneth Roberts did subject Flarity and hundreds of other good faith petitioners to an unfair hearing. The outcome was decided before the petitioners arrived. The official's actions were deliberate, callous, with evil motive or intent, or reckless and in bad faith; or alternately negligent.

## **REMEDIES REQUESTED**

40. Burden of proof for remedies shall be by preponderance of evidence.

41. Each class member whom suffered the unfair hearing by Kenneth Roberts shall be paid \$10,000.

42. As the originator of the Class Action Claim, award Flarity \$50,000 plus legal and moving expenses pursuant to **42 U.S. Code § 1983**; and

43. The Court is requested to levy all the liability portions of claims directly to the Argonaut Insurance Company; and

44. Award any other relief that serves the interests of equitable justice or could encourage future restraint of lawbreaking officials; and

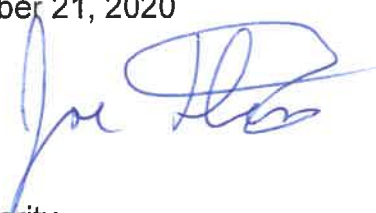
45. Allow amendment of this complaint if the interests of justice require amendment.

CERTIFICATION AND SIGNING:

By signing below, Flarity certifies that this Complaint complies with the requirements of Federal Rule of Civil Procedure 11, to the best of Flarity's knowledge. Flarity certifies that the address is correct and the Clerk will be notified if there is any change.

Date of Signing: December 21, 2020

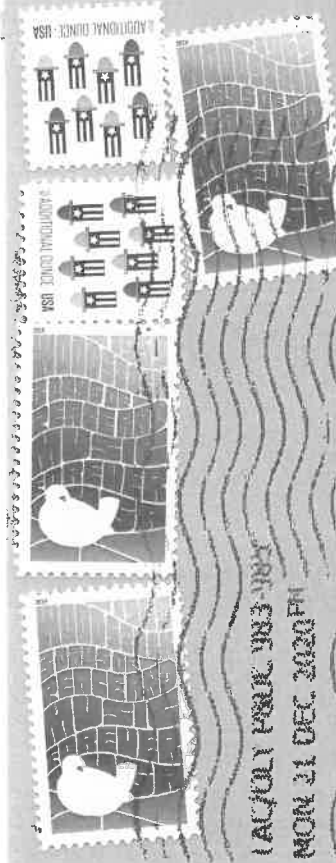
Signature of Plaintiff:



Name of Plaintiff: Joe Flarity

249 Main Ave S, STE 107, #330  
North Bend, WA 98045  
classactionboe@yahoo.com  
253 951 9981

Joe Flarity  
249 Main Ave. S.  
STE 107, # 330  
North Bend, WA  
98045



Clerk For U.S. District Court  
Tacoma Division  
1717 Pacific Avenue, Room 3100  
Tacoma, WA 98402

